

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A PROCESS FOR STATE AND LOCAL REVIEW OF  
5 REGULATORY ACTIONS RELATED TO PRIVATE PROPERTY; REQUIRING THE ATTORNEY GENERAL  
6 TO DEVELOP A PROCESS AND CHECKLIST TO EVALUATE REGULATORY OR ADMINISTRATIVE  
7 ACTIONS THAT MAY AFFECT PROPERTY RIGHTS; ALLOWING A PRIVATE PROPERTY OWNER TO  
8 REQUEST A WRITTEN TAKING ANALYSIS; ALLOWING A PRIVATE PROPERTY OWNER TO SEEK  
9 JUDICIAL DETERMINATION AND OTHER REMEDIES REGARDING A TAKING ANALYSIS; PROVIDING  
10 RULEMAKING AUTHORITY; AND PROVIDING AN APPLICABILITY DATE."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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14 NEW SECTION. **Section 1. State and local review of regulatory actions related to private**

15 **property.** (1) The attorney general shall establish, by December 31, 2024, an orderly, consistent process,  
16 including a checklist, that better enables a state agency or local government entity to evaluate proposed  
17 regulatory or administrative actions to assure that those actions do not result in an unconstitutional taking of  
18 private property. The attorney general shall review and update the written taking analysis process on an annual  
19 basis at minimum to maintain consistency with changes in law. All state agencies and local government entities  
20 shall follow the guidelines of the attorney general.

21 (2) An owner of private property that is the subject of a regulatory or administrative action by a  
22 state agency or local government entity that is subject to an evaluation pursuant to subsection (1) may submit a  
23 written request with the clerk or secretary of the agency or entity undertaking the regulatory or administrative  
24 action. Not more than 28 days after the final decision concerning the matter at issue, a state agency or local  
25 government entity shall prepare a written taking analysis concerning the action. Any regulatory taking analysis  
26 prepared pursuant to this section must comply with the process set forth in this section, including the use of the  
27 checklist developed by the attorney general pursuant to subsection (1), and must be provided to the private  
28 property owner no later than 42 days after the date of the filing of the request with the clerk or secretary of the

1 agency or entity whose action is questioned. A regulatory taking analysis prepared pursuant to this section  
2 must be considered public information.

3 (3) A governmental action is voidable if a written taking analysis is not prepared after a request has  
4 been made pursuant to this section. A private property owner whose private property is the subject of  
5 governmental action and who is affected by a governmental action without the preparation of a requested  
6 taking analysis as required by this section may seek judicial determination of the validity of the governmental  
7 action by initiating a declaratory judgment action or other appropriate legal procedure. A suit seeking to  
8 invalidate a governmental action for noncompliance with subsection (2) must be filed in a district court in the  
9 county in which the private property owner's affected private property is located. If the affected private property  
10 is located in more than one county, the private property owner may file suit in any county in which the affected  
11 private property is located.

12 (4) During the preparation of the taking analysis, any time limitation relevant to the regulatory or  
13 administrative actions must be tolled. This tolling must cease when the taking analysis has been provided to the  
14 private property owner. Both the request for a taking analysis and the taking analysis must be part of the official  
15 record regarding the regulatory or administrative action.

16 (5) A private property owner is not required to submit a request under this section. The decision by  
17 the private property owner to not submit a request under this section may not prevent or prohibit the private  
18 property owner from seeking any legal or equitable remedy, including but not limited to the payment of just  
19 compensation.

20 (6) The department of justice established in 2-15-2001 shall adopt rules to implement this section.  
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22 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an  
23 integral part of Title 70, chapter 30, part 1, and the provisions of Title 70, chapter 30, part 1, apply to [section 1].  
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25 NEW SECTION. Section 3. Saving clause. [This act] does not affect rights and duties that matured,  
26 penalties that were incurred, or proceedings that were begun before [the effective date of this act].  
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28 NEW SECTION. Section 4. Applicability. [This act] applies to regulatory or administrative actions

1 taken by a state agency or local government entity on or after [the effective date of this act].

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